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MEMORANDUM FOR THE RECORD

SUBJECT: Intelligence Charter Legislation Hearings

1. The Senate Select Committee on Intelligence (SSCI) today held its fourth public hearing on the intelligence charter legislation, S. 2525. Senators Walter Huddleston (D., Ky.) and Charles Mathias (R., Md.), and several staff members, were present for the Committee. Present on behalf of the Director of Central Intelligence were [redacted] Assistant General Counsel, and the undersigned; Mr. [redacted] Office of Training, was present also as an observer. The witnesses were: former Deputy Director for Operations Thomas Karamessines; former Deputy Director for Intelligence [redacted]; and former Deputy Director for Science and Technology Herbert Scoville, Jr.

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2. Neither Senator Huddleston nor Senator Mathias made any substantive opening remarks. Each of the three witnesses read into the record a prepared statement. Mr. Karamessines, in his prepared statement, discussed a large number of points, some of the more interesting of which were: the legislation has too many reporting procedures and requirements; the legislation should provide sanctions for the unauthorized disclosure of intelligence sources and methods; the legislation should specifically address the responsibility of Government agencies to provide cover for intelligence officers; requiring by statute that intelligence liaison arrangements must be reported to Congress is inappropriate and would have a detrimental affect on such relationships; and if the Director of National Intelligence (DNI) is separated from heading the CIA, then the Agency at least should, by the terms of the statute, be headed by a separate Director rather than the Deputy or an Assistant DNI. In his remarks, [redacted] stressed that the DNI should not be separated from heading the CIA; the legislation is crowded with too many obligatory reporting requirements; the legislation should "eliminate covert political action altogether"; and clandestine operational activities and human collection "should by and large be diminished, if not eliminated." In his remarks, Mr. Scoville also expressed the view that the DNI must remain as head of the CIA in order to retain a strong and independent intelligence collection and analysis capability. Mr. Scoville also endorsed the notion that not only should the CIA not be responsible for "special activities," but that the U.S. Government should in fact no longer be authorized to conduct any special activities.

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3. During the question and answer period:

--Senator Huddleston asked the witnesses whether special activities might have "more potential" for harm than "for good" and whether they should therefore be proscribed altogether.

--Senator Huddleston asked whether the Government could obtain necessary intelligence information without clandestine human collection.

--Senator Huddleston asked the witnesses whether there should be in the legislation specific prohibitions on types of intelligence activities.

--Senator Mathias asked Mr. Karamessines for his opinion as to morale and career prospects of DDO employees in light of recent reductions.

--Senator Mathias noted that the U.S. Government's counter-terrorism capability was perhaps weak, as was the treatment of the subject in the charter legislation.

--Senator Mathias asked whether or not there should be an attempt in the legislation to categorize different types of collection activity in terms of the authority to carry them out and the requirement for reporting thereon.

--Senator Mathias asked how would gaps in intelligence gathered by technological means be filled.

--Senator Mathias questioned whether any positive purpose would be served by placing certain categories of persons "off limits" for intelligence purposes in the legislation.

--Senator Mathias asked whether, in the opinion of the witnesses, intelligence officers should be made liable by statute for tortious conduct.

--Senator Mathias asked whether it is ever really possible to ensure that the necessary intelligence gets to the President.

4. In response to question and comments by the Senators:

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--Messrs. [] and Scoville recommended that special activities be specifically prohibited in the legislation.

--Mr. Karamessines, on the other hand, recommended that the legislation recognize that the Government should retain the capability to conduct special activities in certain circumstances (Mr. Karamessines recommended that the criteria in the legislation that the special activity be "essential" to the national security before it could be implemented, be changed so that it be "important to the national security."

--Mr. Karamessines objected to the many reporting requirements in the bill and expressed concern that sensitive intelligence information would be very widely disseminated pursuant to the various requirements in the legislation.

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[] expressed the opinion that, generally speaking, the Government can obtain necessary intelligence information without having to resort to clandestine collection.

--Mr. Scoville expressed the opinion that clandestine collection of intelligence by human means is "rarely of great value" and that the authority or capability to engage in such collection should be very narrowly drawn (e.g., for counter-terrorist intelligence).

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[] noted that, in his view, the caliber of intelligence analysts was not as high as it should be, at least partly the result of the unfavorable light in which the CIA has had to operate recently.

--Mr. Karamessines said the recent DDO reductions had been "unfortunate" in the manner in which they had been carried out and had led to a lowering of morale.

--In the context of discussing the morale of CIA analysts, Mr. Scoville was critical of the "A-B Team" exercise in that it "undercut" the expertise of CIA analysts (Senator Huddleston noted that the "Committee came to the same...conclusion").

--Mr. Karamessines strongly endorsed the need to retain the capability to conduct clandestine collection activity (he noted that "day-to-day" or "brush fire" intelligence, as opposed to "survivor" intelligence, was difficult to collect and did not lend itself to technical collection).

--Mr. Karamessines recommended against providing for a separate bureaucracy or category of intelligence for counterterrorism information (in response to a specific question by Senator Huddleston, Mr. Karamessines said that in his opinion the CIA should not be in charge of counterterrorism activities).

STATINTL --At least partly in response to comments made by Messrs. [] and Scoville, Mr. Karamessines noted that clandestine reporting did play an important role in the production of intelligence analysis. *analysis*

--In discussing the value of intelligence gathered by technological means, Mr. Scoville noted that whatever "gaps" exist will be filled by technological rather than human collection.

--Mr. Karamessines noted that it probably would be impossible to convince people that the CIA was really not involved with certain categories of persons even if the legislation placed them "off limits" for intelligence purposes.

--Both Messrs. Karamessines and Scoville supported the notion that intelligence officers should be liable for tortious conduct if these were clear violations of law, provided, in the view of Mr. Karamessines, that a "good faith/scope of authority" defense were available (in this regard, Mr. Huddleston asked rhetorically whether it was important to have a statute that clearly tells intelligence officers what conduct is "within the law").

STATINTL --On the issue of specific prohibitions in the statute, [] endorsed the notion, noted in earlier hearings, that an enumeration of specific prohibitions carries the risk that all other activities are impliedly authorized.

--On the matter of recruiting individuals for intelligence use, Mr. Karamessines said that in his view restrictions on the use of journalists were appropriate, and [] stressed that any person should be free to exchange information with intelligence agencies of the Government (in the context of this discussion, Senator Huddleston noted that it was intended that the legislation make the Peace Corps completely off limits for intelligence purposes, and that the Committee would take a close look at the relevant provisions to ensure that this was the case).

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